

BOULDER CITY MUNICIPAL COURT
501 Avenue G Boulder City, NV 89005
Monday through Thursday 7AM to 6PM Phone: 702-293-9278
Closed Fridays and Holidays
Visit our web page at: www.bcnv.org

Answers to your questions about DUI

What does "DUI" mean?

A person can violate the DUI (driving under the influence) law in three ways:

- Driving while under the influence of alcohol or drugs (whether prescription drugs or illegal drugs).
- Driving with a 0.08 or more blood alcohol level.
- Providing a breath or blood sample within two hours of driving which shows a 0.08 blood alcohol level.

What if there is less than 0.08 percent alcohol?

A person with a blood alcohol level under 0.08 may be convicted of driving under the influence if it can be shown he or she was driving while influenced by alcohol, " to a degree which renders him/her incapable of safely driving or being in actual physical control."

What are field sobriety tests?

Field sobriety tests are conducted to test the coordination and concentration abilities of the DUI suspect. A person is not legally required to submit to field sobriety tests.

How is the DUI suspect tested for alcohol level?

If a person is suspected of driving under the influence of alcohol, two tests are available: breathalyzer or blood. If a person is suspected of driving under the influence of drugs, two tests are available: blood or urine.

Do you have to consent to the tests?

Nevada law says that a DUI suspect must choose between tests if asked to take one by a police officer having reasonable grounds to believe that he or she is under the influence. If the DUI suspect refuses to take a test, an officer may use reasonable force to obtain a blood sample from the suspect.

What if the person is not driving the car but is asleep in the car when an officer arrives?

It is illegal to be in actual physical control of a car while under the influence of alcohol or drugs. Many factors determine whether a person is in actual physical control, but some common ones are that the person is behind the wheel, has the keys in his or her possession, and must have driven the car to the location where the police officer sees the car. Being asleep is not a defense to being in actual physical control. The penalties for being in actual physical control are the same as for driving while under the influence.

What penalties are imposed for DUI?

First Offense in seven (7) years:

- A minimum of 2 days in jail to no more than six months or 48 hours of community service in distinctive garb to a maximum of 96 hours;
- a fine of not less than \$400 nor more than \$1,000;
- successful completion of an approved educational course on the abuse of alcohol and controlled substances;
- attendance of the Victim Impact Panel;
- and a 90 day revocation of my driver's license by the Department of Motor Vehicles.
- If the blood alcohol level is .18 or greater, an alcohol evaluation is mandatory prior to sentencing.

Second offense in seven (7) years:

- At least 10 days but not more than 6 months in jail or residential confinement for not less than 10 days nor more than 6 months;
- a fine of not less than \$750 nor more than \$1,000 or the performance of an equivalent number of hours of community service while dressed in distinctive garb that identifies me as having violated provisions of NRS 484.379;
- attendance of the Victim Impact Panel;
- and revocation of my driver's license for a period of one year by the Department of Motor Vehicles.
- an alcohol evaluation is mandatory prior to sentencing and the Court may order me to attend a program of treatment.

Third offense in seven (7) years:

- Not less than 1 year nor more than 6 years in the Nevada State Prison;
- a fine of not less than \$2,000 and not more than \$5,000;
- and revocation of my driver's license for a period of 3 years by the Department of Motor Vehicles.

Does a driver need an attorney to handle a DUI?

If the prosecutor is seeking imprisonment as a result of a conviction, the DUI defendant is entitled an attorney. If the person cannot afford an attorney, an attorney will be appointed to assist him or her.

What is a felony DUI?

This is a third DUI committed within seven years. Any DUI which involves an accident resulting in a death or substantial bodily harm to another person, whether that person is a passenger in the driver's car or someone not in the driver's car, is also considered a felony offense DUI. "Substantial bodily harm" is defined in Nevada Revised Statute 0.060.

What are the penalties when a death or serious injury is involved?

The person must be fined \$2,000 to \$5,000 and serve 2 to 20 years in prison for each injury or death. Probation is not available for this charge.

Are DUI convictions from other jurisdictions counted by the Nevada courts as prior convictions?

Yes. A DUI conviction from any state within seven years of the current DUI case will count as a prior conviction in Nevada.

Does a person go to jail when arrested for DUI?

Yes. The officer will transport the arrestee to the nearest facility where the arrestee will be tested for alcohol level. The arrestee can be released from jail if he or she posts bail.

Does the person lose his or her driving privilege with a DUI?

A person convicted of a DUI first offense will lose his or her license for 90 days.

A person convicted of a DUI second offense will lose his or her license for one year.

A person convicted of a DUI third offense or a DUI where death or serious bodily injury occurs will lose his or her license for three years.

A person whose blood alcohol test was 0.08 or more will lose his or her license for 90 days.

A driver may request a hearing on the revocation. A driver is required to notify DMV of his or her current address, so it is not a defense that the driver did not receive notice. A license to drive to work is available after half the revocation time has been served if the Breath Ignition Interlock Device is installed in the vehicle by order of the court.

A person convicted of driving while his or her license is revoked for DUI must serve 30 days in jail or 60 days house arrest and must pay a \$500 to a \$1,000 fine. The driver's license will be revoked for an additional period of time. When a revocation period has been served, the driver must go to the DMV to get his or her license back. The driver must pay a reinstatement fee, take a test (or tests) to earn back the license and maintain an SR-22 for three consecutive years.

How can I find an attorney with experience in DUI matters?

You can contact the State Bar of Nevada's Lawyer Referral and Information Service at (702) 382-0504 (toll free in Nevada at 800-789-5747) or look in the Yellow Pages or your telephone directory. You can also ask friends and/or relatives if they can recommend a good lawyer. The State Bar can tell you whether or not an attorney is licensed in Nevada and in good standing.